

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6082 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE CO-OPERATIVE LAND DEVELOPMENT BANK

Versus

RAMANBHAI B PATEL

Appearance:

MR NANDISH CHUDGAR for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/03/97

ORAL JUDGMENT

Heard learned counsel for the petitioner and perused the Special Civil Application.

2. Challenge is made by the petitioner to the Award of Industrial Tribunal, Ahmedabad, in Ref.I.T.No.196 of 1978, under which the Bank has been directed to treat Mr.R.B. Patel, the respondent herein, as having been duly promoted from 1.5.68 as Grade A Supervisor and further

direction has been given to pay him all consequential benefits on the basis of aforesaid deemed promotion.

3. The learned counsel for the petitioner contended that the criteria for promotion on the post of Grade-A Supervisor was on merits and as the respondent could not stand on merits in comparison to his juniors, he was not given promotion from 1.5.68. He has been given promotion on 1.1.69 when he was found meritorious. So far as the first contention is concerned, it is suffice to say that this point has not been raised by petitioner before the Industrial Tribunal and as such, the Tribunal had no occasion to deal with the said point. The petitioner has to point out the error apparent on the order/Award of the Industrial Tribunal on the basis of material produced and submissions made before it. This error apparent on the face of the Award of Industrial Tribunal cannot be made out which has been for the first time raised before this Court, sitting under Article 227 of the Constitution of India. The Tribunal has recorded the finding of fact that in the case before it, the Bank has not produced any material to show that at any point of time, an inquiry has been launched against the respondent for misconduct or that he has been given any show cause notice. This finding of fact has not been controverted by the counsel for the petitioner before this Court. From the Award of the Industrial Tribunal, it further reveals that the Bank has tried to justify the delayed promotion of the respondent on the ground that the respondent's service record was not satisfactory. His junior, who has been given promotion earlier than respondent was stated to be having a clean service record in comparison to the respondent, who has been stated to be reprimanded on quite a number of occasions for negligence and carelessness of his duty as also for some irregularities. The Bank has further come up with the case that many a times, the respondent was warned for his unsatisfactory replies and his periodical increments have also been withheld. The Tribunal has rightly held that in case it would have been a case of guilt or any misconduct or other negligence as stated by Bank, then inquiry would have been held as provided under Regulation 35 of the Gujarat State Co-operative Land Development Bank, which has not been done in the present case. The learned counsel for the petitioner is unable to successfully challenge this finding of fact. However, the learned counsel for the petitioner contended that in case this judgment has been maintained, then many other persons may claim promotions on the basis of criteria of seniority. I do not find any justification in this contention of the learned counsel for the petitioner for the obvious reason

that firstly each case has to be decided on the basis of its own facts and secondly the Tribunal has not decided and proceeded on the basis of what the criteria of promotion was there. The Tribunal has decided the case of respondent only on the facts and not on question of law. It is not held by the Tribunal that the criteria of promotion is not of merits. Whatever point has been raised before the Tribunal, has been considered and the matter has been decided. The learned counsel for the petitioner has also failed to point out any error apparent on the face of the Award of the Tribunal which calls for interference of this Court sitting under Article 227 of the Constitution of India. Against the Award of Industrial Tribunal made in Reference made to it, under the provisions of the Industrial Disputes Act, 1947, no appeal or revision has been provided to this Court by legislature, and the object behind it is clearly borne out, i.e. to give finality to the decisions of the Tribunal. The Industrial Disputes Act, 1947 is a special legislature governing the relationship of employer and employee, i.e. the workman herein. This Court sitting under Article 227 of the Constitution of India, cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. The prerogative must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law and justice, where grave injustice would be done unless the High Court interferes. As stated earlier, it is not the case where the Industrial Tribunal has abused the fundamental principles of law or justice resulting in grave injustice to the petitioner.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

.....

(sunil)